

“(D) more than once with respect to a single late payment.

“(2) **COORDINATION WITH SUBSEQUENT LATE FEES.**—If a payment is otherwise a full payment for the applicable period and is paid on its due date or within an applicable grace period, and the only delinquency or insufficiency of payment is attributable to any late fee or delinquency charge assessed on any earlier payment, no late fee or delinquency charge may be imposed on such payment.

“(3) **FAILURE TO MAKE INSTALLMENT PAYMENT.**—If, in the case of a loan agreement the terms of which provide that any payment shall first be applied to any past due principal balance, the consumer fails to make an installment payment and the consumer subsequently resumes making installment payments but has not paid all past due installments, the creditor may impose a separate late payment charge or fee for any principal due (without deduction due to late fees or related fees) until the default is cured.

“(1) **ACCELERATION OF DEBT.**—No high-cost mortgage may contain a provision which permits the creditor, in its sole discretion, to accelerate the indebtedness. This provision shall not apply when repayment of the loan has been accelerated by default, pursuant to a due-on-sale provision, or pursuant to a material violation of some other provision of the loan documents unrelated to the payment schedule.

“(m) **RESTRICTION ON FINANCING POINTS AND FEES.**—No creditor may directly or indirectly finance, in connection with any high-cost mortgage, any of the following:

“(1) Any prepayment fee or penalty payable by the consumer in a refinancing transaction if the creditor or an affiliate of the creditor is the noteholder of the note being refinanced.

“(2) Any points or fees.”.

(b) **PROHIBITIONS ON EVASIONS.**—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (p) (as so redesignated by subsection (a)(1)) the following new subsection:

“(g) **PROHIBITIONS ON EVASIONS, STRUCTURING OF TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.**—A creditor may not take any action in connection with a high-cost mortgage—

“(1) to structure a loan transaction as an open-end credit plan or another form of loan for the purpose and with the intent of evading the provisions of this title; or

“(2) to divide any loan transaction into separate parts for the purpose and with the intent of evading provisions of this title.”.

(c) **MODIFICATION OR DEFERRAL FEES.**—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (g) (as added by subsection (b) of this section) the following new subsection:

“(r) **MODIFICATION AND DEFERRAL FEES PROHIBITED.**—A creditor may not charge a consumer any fee to modify, renew, extend, or amend a high-cost mortgage, or to defer any payment due under the terms of such mortgage, unless the modification, renewal, extension or amendment results in a lower annual percentage rate on the mortgage for the consumer and then only if the amount of the fee is comparable to fees imposed for similar transactions in connection with consumer credit transactions that are secured by a consumer's principal dwelling and are not high-cost mortgages.”.

(d) **PAYOFF STATEMENT.**—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (r) (as added by subsection (c) of this section) the following new subsection:

“(s) **PAYOFF STATEMENT.**—

“(1) **FEES.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), no creditor or servicer may charge a fee for informing or transmitting to any person the balance due to pay off the outstanding balance on a high-cost mortgage.

“(B) **TRANSACTION FEE.**—When payoff information referred to in subparagraph (A) is pro-

vided by facsimile transmission or by a courier service, a creditor or servicer may charge a processing fee to cover the cost of such transmission or service in an amount not to exceed an amount that is comparable to fees imposed for similar services provided in connection with consumer credit transactions that are secured by the consumer's principal dwelling and are not high-cost mortgages.

“(C) **FEE DISCLOSURE.**—Prior to charging a transaction fee as provided in subparagraph (B), a creditor or servicer shall disclose that payoff balances are available for free pursuant to subparagraph (A).

“(D) **MULTIPLE REQUESTS.**—If a creditor or servicer has provided payoff information referred to in subparagraph (A) without charge, other than the transaction fee allowed by subparagraph (B), on 4 occasions during a calendar year, the creditor or servicer may thereafter charge a reasonable fee for providing such information during the remainder of the calendar year.

“(2) **PROMPT DELIVERY.**—Payoff balances shall be provided within 5 business days after receiving a request by a consumer or a person authorized by the consumer to obtain such information.”.

(e) **PRE-LOAN COUNSELING REQUIRED.**—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (s) (as added by subsection (d) of this section) the following new subsection:

“(t) **PRE-LOAN COUNSELING.**—

“(1) **IN GENERAL.**—A creditor may not extend credit to a consumer under a high-cost mortgage without first receiving certification from a counselor that is approved by the Secretary of Housing and Urban Development, or at the discretion of the Secretary, a state housing finance authority, that the consumer has received counseling on the advisability of the mortgage. Such counselor shall not be employed by the creditor or an affiliate of the creditor or be affiliated with the creditor.

“(2) **DISCLOSURES REQUIRED PRIOR TO COUNSELING.**—No counselor may certify that a consumer has received counseling on the advisability of the high-cost mortgage unless the counselor can verify that the consumer has received each statement required (in connection with such loan) by this section or the Real Estate Settlement Procedures Act of 1974 with respect to the transaction.

“(3) **REGULATIONS.**—The Secretary of Housing and Urban Development may prescribe such regulations as the Secretary determines to be appropriate to carry out the requirements of paragraph (1).”.

(f) **FLIPPING PROHIBITED.**—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (t) (as added by subsection (e) of this section) the following new subsection:

“(u) **FLIPPING.**—

“(1) **IN GENERAL.**—No creditor may knowingly or intentionally engage in the unfair act or practice of flipping in connection with a high-cost mortgage.

“(2) **FLIPPING DEFINED.**—For purposes of this subsection, the term ‘flipping’ means the making of a loan or extension of credit in the form of a high-cost mortgage to a consumer which refinances an existing mortgage when the new loan or extension of credit does not have reasonable, tangible net benefit to the consumer considering all of the circumstances, including the terms of both the new and the refinanced loans or credit, the cost of the new loan or credit, and the consumer's circumstances.

“(3) **TANGIBLE NET BENEFIT.**—The Board may prescribe regulations, in the discretion of the Board, defining the term ‘tangible net benefit’ for purposes of this subsection.”.

SEC. 304. AMENDMENT TO PROVISION GOVERNING CORRECTION OF ERRORS.

Section 130(b) of the Truth in Lending Act (15 U.S.C. 1640(b)) is amended to read as follows:

“(b) **CORRECTION OF ERRORS.**—A creditor has no liability under this section or section 108 or

112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if—

“(1) within 30 days of the loan closing and prior to the institution of any action, the consumer is notified of or discovers the violation, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the consumer—

“(A) make the loan satisfy the requirements of this chapter; or

“(B) in the case of a high-cost mortgage, change the terms of the loan in a manner beneficial to the consumer so that the loan will no longer be a high-cost mortgage; or

“(2) within 60 days of the creditor's discovery or receipt of notification of an unintentional violation or bona fide error as described in subsection (c) and prior to the institution of any action, the consumer is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the consumer—

“(A) make the loan satisfy the requirements of this chapter; or

“(B) in the case of a high-cost mortgage, change the terms of the loan in a manner beneficial so that the loan will no longer be a high-cost mortgage.”.

SEC. 305. REGULATIONS.

(a) **IN GENERAL.**—The Board of Governors of the Federal Reserve System shall publish regulations implementing this title and the amendments made by this title in final form before the end of the 6-month period beginning on the date of the enactment of this Act.

(b) **CONSUMER MORTGAGE EDUCATION.**—

(1) **REGULATIONS.**—The Board of Governors of the Federal Reserve System may prescribe regulations requiring or encouraging creditors to provide consumer mortgage education to prospective customers or direct such customers to qualified consumer mortgage education or counseling programs in the vicinity of the residence of the consumer.

(2) **COORDINATION WITH STATE LAW.**—No requirement established by the Board of Governors of the Federal Reserve System pursuant to paragraph (1) shall be construed as affecting or superseding any requirement under the law of any State with respect to consumer mortgage counseling or education.

SEC. 306. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date of the enactment of this Act and shall apply to mortgages referred to in section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) consummated on or after that date.

TITLE IV—OFFICE OF HOUSING COUNSELING

SEC. 401. SHORT TITLE.

This title may be cited as the “Expand and Preserve Home Ownership Through Counseling Act”.

SEC. 402. ESTABLISHMENT OF OFFICE OF HOUSING COUNSELING.

Section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533) is amended by adding at the end the following new subsection:

“(g) **OFFICE OF HOUSING COUNSELING.**—

“(1) **ESTABLISHMENT.**—There is established, in the Office of the Secretary, the Office of Housing Counseling.

“(2) **DIRECTOR.**—There is established the position of Director of Housing Counseling. The Director shall be the head of the Office of Housing Counseling and shall be appointed by the Secretary. Such position shall be a career-reserved position in the Senior Executive Service.

“(3) **FUNCTIONS.**—

“(A) **IN GENERAL.**—The Director shall have ultimate responsibility within the Department, except for the Secretary, for all activities and matters relating to homeownership counseling and rental housing counseling, including—